

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

WHITE PINES INSURANCE COMPANY,

Plaintiffs,

Case No. 3:21-cv-000429

v.

The Honorable Robert C. Chambers

INTERSTATE TOWING, LLC

Defendant.

PLAINTIFF'S APPLICATION FOR DEFAULT JUDGMENT

Pursuant to Fed. R. Civ. P. 55 (b)(2), Plaintiff White Pine Insurance Company ("White Pine"), by counsel, applies for default judgment against Defendant Interstate Towing, LLC. As grounds for its application, White Pine states that defendant, Interstate Towing, LLC was personally served the Summons and Complaint in this matter on August 19, 2021, with an Answer due on September 9, 2021. (*See Doc No. 4*). Further, on December 9, 2021, the Honorable Robert C. Chambers entered an order directing the Clerk to enter Default against this Defendant, which was also done of that date. (*See Doc Nos. 11 and 12*). Defendants have failed to file an Answer within the time prescribed by the Federal Rules of Civil Procedure.

As further grounds for its application, White Pine states that it is entitled to declaratory judgment in its favor Pursuant to F.R. Civ. P. 56. There is no genuine issue as to any material fact and White Pine Insurance Company is entitled to judgment as a matter of law. The driver, Robert Hundell, is not a listed driver in the Non-Listed Driver Endorsement to Interstate Towing, LLC's policy of insurance, and therefore, per the terms of the policy, the limits applicable to claims related to bodily injury are those of the state statutory minimum. As a matter of law, the Policy 's limits for the alleged injuries suffered by Frank White, Jr. are therefore twenty-five thousand dollars

(\$25,000), the state statutory minimum. For these reasons, more fully elaborated in the memorandum of law supporting this motion, White Pine requests that default and declaratory judgment be entered in its favor against defendant, Interstate Towing, LLC.

This Motion is supported by simultaneously submitted memorandum of law and the following attached Exhibits, A through C.

- A. Copy of White Pine Policy;
- B. Police Report;
- C. Interstate Towing, LLC's application for insurance.

Respectfully Submitted,

HARDIN THOMPSON, P.C.

Susan L. Loughran

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Attorney for Plaintiff, White Pine Ins. Co.

CERTIFICATE OF SERVICE

I, the undersigned, of counsel for plaintiff, White Pine Insurance Company, hereby certify that I electronically filed this Plaintiff's Application for Default Judgment with the Clerk of the Court using the CM/ECF system.

I have this day mailed a copy of the Plaintiff's Application for Default Judgment via the U.S. Postal Service, first-class postage prepaid, to the following:

Interstate Towing, LLC
5748 Camp Creek Road
Huntington, WV 25701

Matthew P. Stapleton
Scott G. Stapleton
Stapleton Law Offices
400 5th Avenue
Huntington, WV 25701

Done this 23rd day of December, 2021.

s/Susan L. Loughran
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